

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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MARVIN FRANK,	:	ECF CASE
individually and on behalf of a class,	:	
	:	
Plaintiff,	:	Case No. 07 CV 11420 (VM)
	:	
-V.-	:	
	:	<b>NOTICE OF MOTION</b>
1337 THIRD AVENUE LLC,	:	
d/b/a ATLANTIC GRILL,	:	
	:	
Defendant.	:	
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**PLEASE TAKE NOTICE** that, upon the accompanying Memorandum of Law in Support of the Motion to Dismiss made by Defendant 1337 Third Avenue LLC, the undersigned will move this Court, before the Honorable Victor Marrero, at the United States District Court for the Southern District of New York, located at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York, on a date and at a time to be determined by the Court, for an Order dismissing the Amended Complaint in its entirety pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure.

Dated: New York, New York  
May 5, 2008

SCHULTE ROTH & ZABEL LLP,

By: /s/ Robert J. Ward

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